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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ECHO GLOBAL LOGISTICS, INC., a
Delaware corporation,

Plaintiff,

vs.

LIBERTY MULTI-MODAL, LLC, *et al.*,

Defendants.

Case No.: 3:18-cv-01824-HZ

**STIPULATED PERMANENT
INJUNCTION**

STIPULATED PERMANENT INJUNCTION

WHEREAS, on October 15, 2018, Plaintiff Echo Global Logistics, Inc. (“Echo”) filed the above-captioned action against Defendants Liberty Multi-Modal, LLC (“LMM”); Thomas Arant (“Arant”); Clay Russell Hayden (“Hayden”); and Brandon Scott (“Scott”), asserting claims of breach of contract, breach of fiduciary duty; tortious interference, promissory estoppel, unjust enrichment, and injunctive relief (hereafter, the “Claims”);

WHEREAS, on November 27, 2018, the Court entered a Stipulated Temporary Injunction (Dkt. 36) against LMM, Arant, Hayden, and Scott (collectively, the “Defendants”);

WHEREAS, Echo and the LMM Parties (collectively, the “Parties”) now wish to stipulate and agree to the issuance of a permanent injunction as set forth herein, and agree to request that the Court so order;

THEREFORE, the Parties stipulate and agree as follows:

1. Scope of Application. This Stipulated Permanent Injunction applies to each of the Defendants individually, together with their respective employees (including but not limited to Brandon Cisewski and Race Hebrard), agents and assigns, and any persons or entities acting in concert or participation with any of them who receive actual notice of this Stipulated Permanent Injunction after its entry by the Court.

2. Duration. This Stipulated Permanent Injunction shall remain in effect until it expires by its terms, below.

3. Restricted Activities – All Defendants. Defendants, and each of them, shall refrain from the following:

(a) Confidentiality. Defendants shall not directly or indirectly use or disclose Echo’s “Confidential Information,” defined as all confidential competitive pricing, operational, sourcing, marketing, proprietary, trade secrets and other information relating or belonging to Echo or its affiliates (whether or not in writing), including without limitation all such information disclosed to or obtained by an Echo employee during the employee’s employment,

and further including without limitation: patented or unpatented inventions, discoveries and improvements; marketing, manufacturing, organizational, operating and business plans and strategies; research and development; information-gathering techniques and methods; policies and manuals; sales forecasts; proprietary software; personnel information (including without limitation performance, medical and other private information); nonpublic financial information; current and prospective customer and carrier lists and nonpublic customer information; weekly loading lists; and information concerning planned or pending acquisitions, investments, divestitures, and purchases of major equipment or property. Confidential Information does not include information that lawfully is or becomes publicly known outside of Echo and its affiliates other than through a violation of law, contract, or other obligation.

(b) Customer Protections. Except as provided in Paragraph 3(d), below, Defendants shall not directly or indirectly solicit or transact business with any of the 336 Echo customers or prospective customers identified in the confidential Appendix B to the parties' Settlement Agreement and Mutual Release of Claims ("the No-Call List").

(c) Employee Protections. Defendants shall not directly or indirectly induce, solicit, or attempt to persuade any employee, independent contractor or other agent of Echo or any of its affiliates (collectively, "Personnel") to terminate his, her, or its employment or other relationship with Echo or any such affiliate, or recruit, solicit, or hire any of the Personnel for any employment, contractor, consulting or other services relationship for or with any other person; provided, however, that the prohibition on hiring Personnel in this Paragraph 3(c) does not apply with respect to Personnel who reside and work in the State of California, so long as (i) no prohibition against inducement, recruitment, or solicitation is violated; and (ii) Defendants do not directly or indirectly solicit or transact business with any customer actively serviced by the former California Personnel during his/her last 18 months of employment at Echo. Nothing in this provision is intended to supersede or replace any contractual or fiduciary duty California Personnel owe to Echo.

(d) Exception for LMM Current Customers. Notwithstanding the restrictions in Paragraphs 3(a) and 3(b), above, and so long as Defendants have made all payments required under the Parties' Settlement Agreement and Mutual Release of Claims, Defendants shall be not be prohibited from continuing to transact business with the 25 customers identified in the confidential Appendix C to the parties' Settlement Agreement and Mutual Release of Claims (the "Released Customer List").

(e) Expiration of Restrictions. The restrictions in Paragraphs 3(b) shall expire January 27, 2021, and the restrictions in Paragraph 3(c) shall expire May 27, 2020. The confidentiality restriction in Paragraph 3(a) shall remain in effect indefinitely so long as Echo's Confidential Information is not publicly disclosed.

4. Defendants' Warranty and Representation Regarding Confidential Information. As of the date of this Stipulated Permanent Injunction, Defendants warrant and represent that they have returned to Echo, and do not possess, any of Echo's "Confidential Information," as that term is defined above, that is in tangible form, whether hard copy or electronic.

5. Warranties and Representations Regarding Compliance. The Defendants agree that bi-monthly on the first of the month beginning February 1, 2019, and continuing through February 1, 2021, LMM shall:

(a) Provide to Echo's counsel of record a written warranty and representation that LMM, and any person or entity in active concert or participation with it have complied with this Stipulated Permanent Injunction; and

(b) Provide to Echo's counsel of record a certified list of LMM's customers for whom LMM has provided services ("Customer List"). Echo shall maintain the Customer List as "Attorney's Eyes Only" under the December 17, 2018 Stipulated Protective Order ("SPO") in this matter (Dkt. #39), modified as follows: The Customer List shall be restricted to the persons listed in the SPO paragraphs 7(a) (Echo's outside counsel of record), 7(e) (the Court

and its personnel); and Josh Jubelirer, Associate General Counsel for Echo, or his successor, and his or his successor's administrative staff.

6. Further Injunctive Relief. If necessary, this Stipulated Permanent Injunction may be enforced by seeking relief from this Court by way of a motion for contempt for a breach. If either party violates this Stipulated Permanent Injunction, he or it further agrees that the other party may be threatened with irreparable harm, which may justify immediate injunctive relief and that the other party may request that a Court of appropriate jurisdiction, including this Court, order an appropriate remedy without the requirement of posting a bond.

SO STIPULATED this 6th day of February, 2019:

OGLETREE, DEAKINS, NASH, SMOAK & STEWART,
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Of Attorneys for Defendants

¹ Authorization to sign received by email on February 6, 2019.

* * * * *

IT IS SO ORDERED:

This 14 day of Feb, 2019.


HONORABLE MARCO A. HERNANDEZ

Presented by:

s/James M. Barrett

James M. Barrett, OSB No. 011991

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

james.barrett@ogeltreedeakins.com

Attorneys for Plaintiff Echo Global Logistics, Inc.

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 6, 2019, I served the foregoing STIPULATED
3 PERMANENT INJUNCTION on:

4 Timothy J. Coleman, OSB No. 841970
5 tcoleman@sussmanshank.com
6 Elizabeth A. Semler, OSB No. 984237
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Attorneys for Defendants

- 12 ☒ by **electronic** means through the Court's eFile and Serve system.
- 13 ☐ by **mailing** a true and correct copy to the last known address of Liberty Multi-Modal,
14 LLC and Brandon Scott. It was contained in a sealed envelope, with postage paid,
15 addressed as stated above, and deposited with the U.S. Postal Service in Portland,
Oregon.
- 16 ☐ by causing a true and correct copy to be **hand-delivered** to the last known address of
17 each person listed above. It was contained in a sealed envelope and addressed as stated
above.
- 18 ☐ by **e-mailing** a true and correct copy to the last known email address of Tom Arant and
19 Clay Hayden.

20
21 By: s/ Sarah Churchill
22 Sarah Churchill, Legal Secretary
23 (503) 552-2140

24
25 37329275.1